

Ryan L. Frei, OSB #192660
ryan.frei@klarquist.com
Scott E. Davis OSB #022883
scott.davis@klarquist.com
KLARQUIST SPARKMAN, LLP
121 S.W. Salmon Street, Suite 1600
Portland, Oregon 97204
Telephone: 503-595-5300

Counsel for Plaintiff
SAWSTOP HOLDING LLC

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

SAWSTOP HOLDING LLC, an Oregon
LLC,

Plaintiff,

v.

FELDER KG, a foreign company,

Defendant.

Case No. 3:24-cv-00796-AN

**DECLARATION OF MARTINE
G. KIVATINETZ IN SUPPORT OF
PLAINTIFF'S OPPOSITION TO
DEFENDANT'S MOTION TO DISMISS**

I, Martine G. Kivatinetz, declare as follows:

1. I am a paralegal at the law firm of Klarquist Sparkman, LLP, counsel for Plaintiff SawStop Holding LLC, in the above-referenced action. I have personal knowledge of the facts herein, and if called as a witness, I could and would testify competently to these matters.

2. This declaration is in support of Plaintiff's Opposition to Defendant's Motion to Dismiss.

3. On or about June 25, 2024, I entered the address "feldergroupusa.com" in an internet browser and was automatically redirected to the website "https://www.felder-group.com/en-us."

4. On or about June 25, 2024, I entered the address “<https://www.felder-group.com>” in an internet browser and clicked on various different country links available on that website via the button on the top-most right corner of the website. There were different phone numbers listed as contact information for each country I viewed.

5. Attached as Exhibit 1 is a true and correct copy of excerpts of the deposition transcript of Ruan du Toit dated February 2, 2022, filed by counsel for Felder KG on May 6, 2024 in Opposition No. 91255905 at the United States Patent and Trademark Office, before the Trademark Trial and Appeal Board, ESTTA Tracking No. ESTTA1356927.

6. Attached as Exhibit 2 is a true and correct copy of a letter dated November 14, 2023 to Commissioner Peter A. Feldman at the Consumer Product Safety Commission from Ruan du Toit of Felder Group USA on behalf of Felder KG, Austria.

7. Attached as Exhibit 3 is a true and correct copy of page 74913 from the Federal Register notice Safety Standard Addressing Blade-Contact Injuries on Table Saws, 88 Fed Reg. 74909 (Nov. 1, 2023).

8. Attached as Exhibit 4 is a true and correct copy of a SawStop webpage accessed on June 24, 2024, at <http://www.sawstop.com/why-sawstop/the-technology/>.

9. Attached as Exhibit 5 is a true and correct copy of the Notice of Opposition filed on May 12, 2020 against trademark application no. 79258755 at the United States Patent and Trademark Office, before the Trademark Trial and Appeal Board, ESTTA Tracking No. ESTTA1054807.

10. Attached as Exhibit 6 is a true and correct copy of a SawStop webpage accessed on June 24, 2024, at <http://www.sawstop.com/products/professional-cabinet-saw-pcs175-pfa30/>.

11. Attached as Exhibit 7 is a true and correct copy of a SawStop webpage that shows the braking system and was accessed on June 24, 2024, at <http://www.sawstop.com/wp->

content/uploads/2021/09/DSC00179_EDIT-scaled.jpg.

12. Attached as Exhibit 8 is a true and correct copy of a Felder Group webpage showing locations, accessed on June 24, 2024, at <https://www.felder-group.com/en-us/showrooms>.

13. Attached as Exhibit 9 is a true and correct copy of Articles of Incorporation of ASW Machinery, Inc., filed June 16, 1998.

14. Attached as Exhibit 10 is a true and correct copy of a Felder Group webpage accessed on June 24, 2024, at <https://www.felder-group.com/en-us/products/sliding-table-saws-c1947/sliding-table-saw-kappa-550-p613703>.

15. Attached as Exhibit 11 is a true and correct copy of excerpts of the deposition transcript of Ruan du Toit dated April 16, 2024, in Opposition No. 91255905 at the United States Patent and Trademark Office, before the Trademark Trial and Appeal Board.

16. Attached as Exhibit 12 is a true and correct copy of a WIPO report on International Registration in Force Trademark of mark “PCS.”

17. Attached as Exhibit 13 is a true and correct copy of Initial Disclosures of Felder KG dated October 27, 2020, served by counsel for Felder KG in Opposition No. 91255905 at the United States Patent and Trademark Office, before the Trademark Trial and Appeal Board.

18. Attached as Exhibit 14 is a true and correct copy of Applicant’s General Objections and Answers to Opposer’s First Set of Interrogatories dated May 19, 2021, and served by counsel for Felder KG in Opposition No. 91255905 at the United States Patent and Trademark Office, before the Trademark Trial and Appeal Board.

19. Attached as Exhibit 15 is a true and correct copy of a Felder Thanksgiving Promotion brochure including a European postmark and an address in Oregon.

20. Attached as Exhibit 16 is a true and correct copy of Applicant's Objections and Answers to Opposer's Third Set of Interrogatories dated January 14, 2022, and served by counsel for Felder KG in Opposition No. 91255905 at the United States Patent and Trademark Office, before the Trademark Trial and Appeal Board.

21. Attached as Exhibit 17 is a true and correct copy of a Felder Group webpage accessed on June 24, 2024 at <https://www.felder-group.com/en-us>.

22. Attached as Exhibit 18 is a true and correct copy of Felder Group's Privacy notice accessed on June 24, 2024 at <https://www.felder-group.com/en-us-dataprivacy-protection> by clicking on the Privacy Statement link at the bottom of the webpage at <https://www.felder-group.com/en-us>.

23. Attached as Exhibit 19 is a true and correct copy of Felder Group's Career Portal accessed on June 24, 2024 at <https://www.felder-group.jobs/en> from the Job portal link at the bottom of the webpage at <https://www.felder-group.com/en-us>.

24. Attached as Exhibit 20 is a true and correct copy of Felder Group's Job Vacancies available through the Felder Group Karriereportal, accessed on June 18, 2024 at <https://felder-group.jobs/en/job-vacancies>.

25. Attached as Exhibit 21 is a true and correct copy of a Felder Group webpage accessed at <https://felder-group.jobs/en/learningcompany>, on June 24, 2024. A link to that webpage is under "Learning Company" on Exhibit 19.

26. Attached as Exhibit 22 is a true and correct copy an article by Dakota Smith, *Felder Group at IWF Atlanta*, Wood Working Network, accessed at <https://www.woodworkingnetwork.com/iwf/iwf-news/felder-group-iwf-atlanta> on June 24, 2024. The link at the bottom of the article to get free tickets to the IWF Atlanta tradeshow at felder.group/forms/contact leads to a Felder "Contact form" attached as Exhibit 23.

27. Attached as Exhibit 23 is a true and correct copy of the Contact form accessed on June 24, 2024 on Felder Group's website at <https://ml.felder.group/forms/contact/en-us/> via the link in Exhibit 22, [felder.group/forms/contact](https://ml.felder.group/forms/contact) which redirects to the webpage attached as Exhibit 23. The Contact form provides a dropdown list of states including Oregon for the address to which free tickets would be sent and requires the user to check a box confirming they have read the privacy policy of the "FELDER GROUP." An excerpt of the Contact form is copied below with an added green box:

The screenshot shows a contact form with the following fields and elements:

- Title***: Text input field.
- First Name*** and **Last Name***: Text input fields.
- E-Mail Address***: Text input field.
- Country**: Dropdown menu with "United States" selected.
- Street***: Text input field.
- Zip*** and **City***: Text input fields.
- State**: Dropdown menu with a list of states: North Carolina, North Dakota, Ohio, Oklahoma, Oregon (highlighted with a mouse cursor), Pennsylvania, Rhode Island, South Carolina, and South Dakota.
- Phonenumber***: Text input field.
- Message***: Text area containing "Free Ticket IWF Atlanta 2024".
- Confirmation**: A checkbox is checked, and the text "I hereby confirm that I have read the privacy policy of the FELDER GROUP" is highlighted with a green box.
- SEND**: A red button at the bottom.

28. Attached as Exhibit 24 is a true and correct copy of the Felder Group's Privacy Statement on Felder Group's website, accessed on June 24, 2024 at https://pim.felcom.at/WEB/PrivacyStatements/PrivacyStatement_ENG_2018.pdf via the link shown in Exhibit 23 embedded in "I hereby confirm that I have read the privacy policy of the FELDER Group" in the annotated green box above in an excerpt of the Contact form.

29. Attached as Exhibit 25 is a true and correct copy of excerpts from the SawStop® 10" Professional Cabinet Saw Owner's Manual Model PCS175, which I understand was produced bearing production numbers SSP-000193–SSP000316 in October 2020 to counsel for Felder KG in Opposition No. 91255905 at the United States Patent and Trademark Office, before the Trademark Trial and Appeal Board.

30. Attached as Exhibit 26 is a true and correct copy of the results of searching for "felder-group.com" on the website <https://lookup.icann.org/en/lookup>.

31. Attached as Exhibit 27 is a true and correct copy of Exhibit 8 to the deposition transcript of Ruan du Toit dated February 2, 2022, and filed on May 6, 2024 in Opposition No. 91255905 at the United States Patent and Trademark Office, before the Trademark Trial and Appeal Board, ESTTA Tracking No. ESTTA1356927.

32. Attached as Exhibit 28 is a true and correct copy of Exhibit 15 to the deposition transcript of Ruan du Toit dated February 2, 2022, and filed on May 6, 2024 in Opposition No. 91255905 at the United States Patent and Trademark Office, before the Trademark Trial and Appeal Board, ESTTA Tracking No. ESTTA1356927.

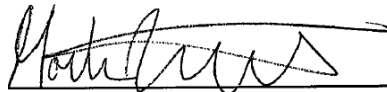
33. Attached as Exhibit 29 is a true and correct copy of a Felder Group webpage accessed on June 25, 2024 at <https://felder-group.jobs/en/leader-in-technology>.

34. Attached as Exhibit 30 is a true and correct copy of Exhibit 3 to the deposition transcript of Ruan du Toit dated February 2, 2022, and filed on May 6, 2024 in Opposition No.

91255905 at the United States Patent and Trademark Office, before the Trademark Trial and Appeal Board, ESTTA Tracking No. ESTTA1356927

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on June 26, 2024, in San Francisco, California.

A handwritten signature in black ink, appearing to read 'Martine G. Kivatinetz', written over a horizontal line.

Martine G. Kivatinetz